

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>DANNAH BAKER</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 1,022,052
<b>USD 214</b>	)	
Respondent	)	
AND	)	
	)	
<b>KANSAS ASSOCIATION OF SCHOOL BOARDS</b>	)	
<b>WORKERS COMPENSATION FUND</b>	)	
Insurance Fund	)	

**ORDER**

Claimant appealed the September 27, 2006, Award entered by Administrative Law Judge Pamela J. Fuller. The Workers Compensation Board heard oral argument on January 19, 2007, in Wichita, Kansas.

**APPEARANCES**

Kelly W. Johnston of Wichita, Kansas, appeared for claimant. Anton C. Andersen of Kansas City, Kansas, appeared for respondent and its insurance fund.

**RECORD AND STIPULATIONS**

The record considered by the Board and the parties' stipulations are listed in the Award. In addition, the record also includes the deposition transcript of Helen Cook, which was taken on July 31, 2006.

**ISSUES**

Claimant alleges she either sustained an accidental injury or developed an occupational disease from being exposed to mold while at work in her first grade classroom at Sullivan Elementary School in Ulysses, Kansas. Claimant alleges her exposure occurred during the 2003-2004 school year, which ran from August 2003 through May 26, 2004.

In the September 27, 2006, Award, Judge Fuller denied claimant's request for workers compensation benefits after concluding claimant failed to prove she either sustained an injury or developed an occupational disease from working in her classroom. In arriving at that conclusion, the Judge made three principle findings: (1) before commencing work for respondent, claimant had experienced all of the symptoms that she attributed to the mold exposure she allegedly experienced working for respondent, (2) claimant failed to show her work as a schoolteacher placed her at a greater risk to mold exposure than the general public, and (3) claimant failed to prove the conditions or mold levels in her classroom were sufficient to aggravate a preexisting condition or that she, in fact, experienced any such aggravation.

Claimant contends the Award should be reversed. Claimant argues she is entitled to receive permanent partial general disability benefits based upon either her functional impairment or her loss of earning capacity. In addition, claimant requests payment of her medical expenses as authorized medical benefits.

Conversely, the school district and its insurance fund contend this claim should be denied. They argue claimant has neither an injury nor disease that is related to her work. Further, they contend claimant has no disability as she has no permanent restrictions or wage loss that is attributable to her alleged exposure.

The issues before the Board on this appeal are:

1. Did claimant sustain an accidental injury or develop an occupational disease that arose out of and in the course of her employment with respondent?
2. If so, what is the nature and extent of claimant's disability?
3. Is claimant entitled to authorized and unauthorized medical benefits?

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the parties' arguments, the Board finds and concludes:

1. Claimant taught school for the Ulysses Unified School District 214 during the 2003-2004 school year, which ran from August 2003 through approximately May 26, 2004. During that school year, claimant taught first grade at Sullivan Elementary School. Her classroom was classroom number 3, which had a reputation among the school staff as causing illness.

2. The school year before claimant began teaching at Sullivan Elementary, Ms. Paula Alexander, a reading instructor who moved from classroom to classroom, noticed a musty odor in classroom 3. Although she only spent approximately an hour a day in classroom 3, on some days the odor was awful and she would become nauseated. Moreover, Ms. Alexander noticed the children in classroom 3 seemed to have more runny noses than the other two first grade classes she taught. Ms. Alexander testified, in part:

I just noticed it seemed like that group of children seemed to have a lot more snotty, runny noses constantly, than the other two first grade classrooms that I was in, because Angie [Harvey] and I were always telling them you know, blow their noses or get a Kleenex and it just seemed kind of unusual to me for that many children to have runny noses all the time.<sup>1</sup>

Nonetheless, Sullivan Elementary School attendance records from the 2003-2004 school year did not indicate an attendance or tardiness problem in classroom 3 when compared to the other first grade classes at the school. Those records, however, did not address the number of students who were present but displayed symptoms. On the other hand, the daughter of the school principal and the son of the district's former assistant superintendent did not display any particular health problems from being in classroom 3 during the 2003-2004 school year.

3. Angela Harvey, the first grade teacher who taught the students in classroom 3 during both the 2001-2002 and 2002-2003 school years, also believed the classroom smelled musty. She also thought the room was cold and damp especially when she used the room's air conditioner. Consequently, Ms. Harvey purchased air fresheners for the classroom and eventually began using a dehumidifier and an air purifier. During her first year in classroom 3, Ms. Harvey noticed the ceiling leaked in the southeast corner of the room whenever rain or snow collected on the roof. On one occasion, a ceiling tile collapsed and fell to the floor because of a water leak. Ms. Harvey reported to Jodi Pfingsten, the school principal, that there was mold on the decking above the suspended ceiling.

Like Ms. Alexander, Ms. Harvey also noticed her class used extraordinary amounts of Kleenex tissues for runny noses. Ms. Harvey even received complaints from parents that their children were coming home with headaches. Moreover, Ms. Harvey noticed the children's symptoms improved once they began using the dehumidifier and air purifier.

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<sup>1</sup> Alexander Depo. at 12.

4. During her first year in classroom 3, Ms. Harvey noticed she began drinking an extraordinary quantity of water. She also developed sinus symptoms. And by February 2002, she reported to the school nurse that she felt swelling in her throat. Further, Ms. Harvey, who was then in her twenties, was hospitalized for four days in approximately February 2002 after becoming exhausted at school and fainting at home. She was discharged from the hospital without the doctor being able to make a diagnosis. Despite her symptoms, Ms. Harvey completed the 2001-2002 school year. Away from the school during the summer of 2002, her health improved.

In August 2002, Ms. Harvey returned to teach in classroom 3 for the 2002-2003 school year. After approximately a month, she resumed consuming large amounts of water and began feeling ill. It was during her second year at Sullivan Elementary that Ms. Harvey began using a dehumidifier, which seemed to lessen her symptoms. Likewise, her symptoms improved during holidays when she was away from school. Ms. Harvey last taught at Sullivan Elementary in May 2003. Her health has since improved.

5. When claimant moved into classroom 3, she was told by several staff members at the school that there was a problem with the classroom. But claimant initially dismissed those concerns. When preparing her classroom for the 2003-2004 school year, claimant noticed that in the southeast corner of the room there were water stains, rusted metal stripping below the bulletin board, and wood rot or other water damage in the windowsills. She also noticed a number of ceiling tiles with water stains that were eventually replaced. In addition, claimant noticed other water stains throughout the building.
6. When claimant began teaching at Sullivan Elementary School, classroom 3 already had a history of water leaks. And in February 2003, a new roof was placed on the school. Nonetheless, classroom 3 retained a musty odor and, according to claimant, a bit of stickiness. Claimant estimated she opened the windows in her classroom two or three times a week in both the summer and winter. Like Ms. Harvey before her, claimant also used both an air purifier and a dehumidifier in the classroom.
7. In August 2003, classes began. By late October or early November of 2003, claimant began experiencing severe headaches. In addition, she also began experiencing vertigo, occasional nausea, numbness in her hands and feet, fatigue, and problems with her memory and speaking.
8. In December 2003, claimant sought medical treatment from her family physician, Dr. Douglas Johnson. After reviewing an MRI that revealed lesions on claimant's brain, the doctor was concerned that claimant might have multiple sclerosis.

Consequently, Dr. Johnson referred claimant to Dr. Calvin Olmstead, a neurologist, who initially believed claimant had multiple sclerosis. But after additional testing, Dr. Olmstead concluded claimant did not have multiple sclerosis. Therefore, he began treating claimant for her headaches. That treatment did not help and Dr. Johnson eventually prescribed claimant medications for her headaches, which helped somewhat. Her other symptoms continued.

9. Claimant did not attribute her health problems to her classroom until sometime in February 2004, when a respiratory technician that claimant happened to be speaking with wondered if claimant's problems might be environment-related. The first time claimant told anyone from the school district that she thought her ongoing health problems were related to her classroom was approximately February 14, 2004, when she met with William Hall, the school district's superintendent of schools. And the first time claimant asked the school district to provide her medical treatment was sometime after February 14, 2004.
10. Having concerns about the air quality in classroom 3, Mr. Hall contacted Employers Mutual Casualty Companies, which was one of the school district's insurance carriers. Consequently, in early March 2004 Employers Mutual sent industrial hygienist Kent A. Candee to Sullivan Elementary School to evaluate the classroom. Mr. Candee conducted a visual inspection and spotted evidence of past water intrusion in the southeast corner of the room. He did not see any mold. Removing the ceiling tiles, Mr. Candee observed considerable water damage from prior roof leaks. Along the exterior wall near the southeast corner of the room he raised the vinyl that covered the bulletin board and discovered water damage to the fiberboard, which was crumbling and deteriorating. He also noted water stains around the wood below the bulletin board, found watermarks indicating water had gone behind the wallboard, and found moisture damage in the metal channel holding the bulletin board. Nonetheless, the air samples in classroom 3 did not indicate any significant problem. While gathering information about the classroom, another individual (Kay Stuart) told Mr. Candee her sinus infections were worse in that room.
11. Classroom 3 is cooled by its own air conditioner. Accordingly, during his March 2004 inspection, Mr. Candee took surface samples from the inlet side of the air conditioner's air filter. He also took surface samples from the top side of the room's south ceiling fan and from the mounting bracket of the television set that was located near the southeast corner of the room. Tests on those surface samples indicated mold. The different types of mold that were found, which were identified as the *Alternaria* species, *Cladosporium* species, and *Bipolaris/Drechslera* group, are ubiquitous. But without water as a precursor, none of these molds are common

indoors.<sup>2</sup> Mr. Candee recommended to the school district that classroom 3 should be cleaned with a HEPA vacuum and wet wiping, and that such dust control techniques be implemented as a part of the regular housekeeping program. More importantly, he recommended that a section of the wallboard be replaced after assessing the water damage behind the bulletin board. In addition, he found the ventilator of the classroom's steam heating system did not function and he, therefore, recommended that it be repaired. He further recommended monthly inspections and regular replacement of the ventilator's air filter and the air conditioner's return-air filter. Finally, among other remaining suggestions, he recommended the school district establish a housekeeping program based upon ASTM<sup>3</sup> standards and EPA software.<sup>4</sup> Based upon the March 2004 inspection, Mr. Candee did not believe classroom 3 was unsafe for its occupants or that the classroom had a mold problem.

12. Claimant's health problems progressed through the school year. And by April or May of 2004, claimant was vomiting daily, mostly in the afternoon or evening. Because of her vomiting, she was not able to take her pain medications and, therefore, she went to the emergency room for pain injections. From October 2003 through the end of the school year in May 2004, claimant believes her symptoms worsened. By May 2004, claimant was taking hydrocodone for her headaches. But once the 2003-2004 school year ended and she was away from Sullivan Elementary School, claimant's symptoms improved.
13. During the summer of 2004, claimant learned from Mr. Hall that a portion of her classroom's bulletin board and the wall that showed water damage were going to be removed and replaced with new material. The school district's director of facilities, Ken Kistler, removed and replaced the water-damaged wallboard and bulletin board in classroom 3. Removing the bulletin board revealed a 1 foot by 1½ foot area of black mold on the sheetrock behind the bulletin board. Both claimant and Mr. Hall procured samples of that mold. Claimant provided her sample to Dr. Johnson, who sent it on to a laboratory, which reported that the sample grew into *Penicillium*.<sup>5</sup> Mr. Hall sent his sample to Employers Mutual. Mr. Hall's samples held different species of mold growth: *Stachybotrys*, *Acremonium*, *Chaetomium*, and one unidentified species, none of which were found during the March 2004 testing.

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<sup>2</sup> Candee Depo. at 78.

<sup>3</sup> American Society for Testing and Materials.

<sup>4</sup> Candee Depo., Ex. 3 at 13.

<sup>5</sup> Candee Depo. at 28.

14. Away from school during the summer of 2004, claimant's symptoms noticeably improved. And by August 2004, her vomiting had stopped. But she still had some numbness in her extremities and occasional vertigo. By November 2004, her vertigo was much better and the pressure claimant felt inside her head had mostly resolved. She was taking less pain medications.
15. Claimant intended to teach at Sullivan Elementary School during the 2004-2005 school year. But after returning to classroom 3 for just two and one-half days to prepare for the 2004-2005 school year, claimant noticed her vertigo was returning and the numbness in her hands and feet was increasing. Moreover, she experienced a numbness or tingling all over her body. The school district offered to move claimant to a different classroom in another part of Sullivan Elementary School. But claimant felt it was in her best interests to decline that offer and leave the school district's employment. Within a couple of months of leaving the school district's employ, claimant obtained employment with another school district, Unified School District 220 in Ashland, Kansas, where she worked part-time as a substitute teacher.
16. In the fall of 2004, because of community concern, the school district hired American Metropolitan Environmental to test, among others, classroom 3 at Sullivan Elementary School. Tests run on samples procured in September 2004 indicated there was *Stachybotrys* mold above the suspended ceiling in classroom 4 along the wall it shared with classroom 3. The ceiling above classroom 3 was closed off from the ceiling above classroom 4. Moreover, the classrooms did not share a common ventilation system. But the rooms did have a common hallway.
17. When claimant last testified in February 2006, she was continuing to experience symptoms that she attributed to classroom 3: memory problems, constant tingling in her hands and feet, fatigue, and occasional bouts (about once a month) of vertigo. Because of those symptoms, claimant did not feel ready to return to teaching on a full-time basis. In addition, she had been told she should recommence allergy injections to become desensitized to certain allergens, including mold. Nevertheless, no doctor has restricted claimant from teaching on a full-time basis.
18. But this was not the first time that claimant had experienced some of the symptoms she attributes to classroom 3. Before being employed by the school district, claimant had reported the following symptoms: numbness in her face and left arm; asthma; upper respiratory symptoms from allergies; depression; fatigue; blurred vision; occasional tinnitus; sinus infections accompanied by dizziness, light-headedness and headaches; and intermittent numbness in her tongue that caused

difficulty reading aloud.<sup>6</sup> When she began working for respondent, she had been taking weekly allergy shots since May 2002.<sup>7</sup> Moreover, in December 2002 she had an MRI of her head that indicated she had severe maxillary sinusitis.<sup>8</sup>

19. Dr. Johnson began treating claimant in July 2003, when claimant had an allergic reaction to her allergy shots. A month later, the doctor gave claimant her school physical and pronounced claimant in good health. But Dr. Johnson began treating claimant in earnest in December 2003, when claimant sought treatment for various symptoms, including intermittent headaches that had begun over the previous week, dizziness, nausea, vomiting, sinus drainage, sinus tenderness, tingling in her legs and arms, and occasional numbness in her hands and/or extremities. Claimant told Dr. Johnson her symptoms would begin in the mornings within a few minutes after she would awaken.

Over the course of 2004, Dr. Johnson, who is a family practitioner, treated claimant and ultimately concluded claimant had been exposed to a number of mold-producing organisms as blood tests indicated she had elevated antibodies, including *Stachybotrys*, in her blood. Dr. Johnson did not believe there was a psychiatric component in claimant's complaints and, moreover, thought claimant was truthful and credible. In short, Dr. Johnson believes claimant has a sensitivity to mold. Moreover, when the doctor last saw claimant in April 2005, she was continuing to experience ongoing symptoms, which did not surprise him as his study indicates mold exposure can cause permanent neurologic damage.

20. Dr. Olmstead, who is board-certified in neurology and psychiatry, treated claimant from January through mid-September 2004. In short, claimant initially reported to him that she had tremors with headaches, dizziness, blurred vision, fainting spells, numbness, tingling and weakness, heart palpitations, nausea, vomiting, and fatigue. After having claimant undergo nerve tests and another MRI, the doctor ruled out multiple sclerosis and, instead, diagnosed tension headaches caused by psychosocial factors in claimant's family history and that she was raising four children by herself.<sup>9</sup> Dr. Olmstead is not aware of any studies that relate a moldy environment and permanent neurological damage without the mold entering the

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<sup>6</sup> Baker Depo. at 54, 55; Moffitt Depo. at 14.

<sup>7</sup> Baker Depo. at 55, 56.

<sup>8</sup> Moffitt Depo., Ex. 1.

<sup>9</sup> See Olmstead Depo. at 20.



central nervous system. And there were no findings to indicate that had occurred to claimant.

21. Claimant's attorney requested Dr. Peter V. Bieri to evaluate claimant for purposes of this claim. Dr. Bieri, utilizing the AMA *Guides*<sup>10</sup> (4th ed.) examined claimant in May 2005 and determined she had sustained a 24 percent whole person functional impairment (five percent for disturbance of mental status and integrative functioning and 20 percent for episodic neurologic disorders) due to toxic mold exposure. Dr. Bieri, who admits he is not an expert regarding mold, thought claimant had most likely inhaled the mold but he had no opinion of the amount required to make such exposure toxic. The doctor further concluded the only medical treatment claimant needed was the treatment that she was already receiving – allergy immunotherapy and over-the-counter medications. Moreover, Dr. Bieri concluded claimant could teach school but that she should avoid smoke, irritating odors and chemicals, and allergens such as molds, spores and pollens.
22. Claimant's principal medical expert, however, was Dr. Maurice Henry Van Strickland, who is an associate clinical professor at the University of Kansas Medical School and board-certified in pediatrics and allergy and immunology. The doctor has treated people having mold reactions for more than 30 years. In addition, the doctor and his family have personally experienced the ill effects from being exposed to mold.

Dr. Strickland saw claimant on two occasions, once in October 2004 and again in November 2004. The doctor's assistant also saw claimant once in January 2005. Based upon his evaluation, Dr. Strickland concluded claimant has a mold-induced illness from inhaling either mold spores or mold particles, which can break down into particles that are not seen on a microscope and can exceed the concentration of mold spores by 500 fold.<sup>11</sup> According to skin tests the doctor performed, the doctor concluded claimant had been exposed to *Stachybotrys chartarum*. The immunoglobulin tests that Dr. Johnson had ordered supported Dr. Strickland's opinion as those tests for antibodies indicated *Stachybotrys* particles had entered claimant's body. Moreover, the reports from the testing that was done in Sullivan Elementary School in 2004 supported Dr. Strickland's conclusions as the mold that was identified was compatible with the sensitization noted in claimant.

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<sup>10</sup> American Medical Association, *Guides to the Evaluation of Permanent Impairment*.

<sup>11</sup> Strickland Depo. (Jan. 10, 2006) at 26.

Moreover, Dr. Strickland believes that if *Stachybotrys* was present behind the bulletin board in classroom 3, *Stachybotrys* bioaerosol would be present in the room. In addition, the doctor believes the mold from classroom 4 could transfer into other parts of the school through an open door. In summary, the doctor concluded claimant has a mold-induced illness from working in classroom 3 and that she will be permanently allergic to mold to some degree for the rest of her life. Claimant should now avoid smoke and other irritating odors and chemicals.

23. To counter Dr. Strickland, respondent and its insurance fund hired Dr. Allen J. Parmet, who specializes in occupational medicine and who has worked with the Department of Defense on toxicological issues, to evaluate claimant for purposes of this claim. Dr. Parmet examined claimant in July 2005 and concluded claimant did not have complaints that were compatible with either an allergic response or toxic response to mold exposure. Like Dr. Olmstead, Dr. Parmet thought claimant was probably suffering from tension headaches, sinusitis, or both. Dr. Parmet also thought it was possible that claimant had multiple sclerosis. Dr. Parmet did not detect any memory deficit in claimant. And because claimant had a host of symptoms before beginning work at Sullivan Elementary School, including upper respiratory symptoms, asthma, facial numbness, upper extremity numbness, blurry vision, tinnitus, seasonal allergies, dizziness, headaches, light-headedness, and difficulty reading aloud, Dr. Parmet was unable to relate those symptoms to her work in classroom 3.

After reviewing the reports prepared by Mr. Candee and the later reports prepared by Steven Moreland of American Metropolitan Environmental, Dr. Parmet concluded the amount of mold present in classroom 3 was insignificant. Moreover, the doctor attacked many of the tests and results that Dr. Strickland obtained as being outside mainstream science or medicine. In short, Dr. Parmet did not attribute any of claimant's symptoms, or any permanent impairment that claimant may have, to classroom 3.

24. As indicated above, Judge Fuller concluded claimant failed to prove she either sustained an injury or developed an occupational disease due to working in classroom 3 at Sullivan Elementary School. The majority of the Board agrees. Claimant suffered from many, if not all, of the symptoms of which she now contends she developed while teaching at Sullivan Elementary School. Although the environmental studies indicate there was mold in classrooms 3 and 4, the evidence fails to establish that it was in sufficient quantity as to harm claimant or her students. Moreover, the medical opinions from both Dr. Olmstead and Dr. Parmet indicate claimant's ongoing symptoms are unrelated to her work in classroom 3. The Board adopts the conclusion of Judge Fuller that claimant has failed to carry her burden of proof. Consequently, the September 27, 2006, Award should be affirmed.

25. This Board has held that an exposure to mold over a long period of time is more in the nature of a disease rather than an accidental injury in the context of the Workers Compensation Act. Moreover, in *Walker*,<sup>12</sup> the majority held the worker's exposure to mold in the medical clinic where she worked was not compensable under the Workers Compensation Act as her occupation as a nurse did not create a particular or peculiar hazard to mold exposure that distinguished her job from other occupations and employments.<sup>13</sup>

**AWARD**

**WHEREFORE**, the Board affirms the September 27, 2006, Award entered by Judge Fuller.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June, 2007.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

**DISSENT**

I respectfully disagree with the majority. I believe claimant has established, at a minimum, that she either experienced an allergic reaction or aggravated a preexisting condition by working in classroom 3 at Sullivan Elementary. The circumstantial evidence

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<sup>12</sup> *Walker v. Via Christi Health System*, No. 242,959, 2002 WL 31103958 (Kan. WCAB Aug. 30, 2002) (appeal to Kansas Court of Appeals dismissed by stipulation).

<sup>13</sup> See K.S.A. 44-5a01(b).

is overwhelming. The record proves classroom 3 caused adverse health effects in others as well as claimant. Many complained of the musty odor in the entire south hallway where classroom 3 was located. The record further established that claimant was exposed to mold particles in classroom 3 that may be toxic but are also known allergens. And the greater weight of the medical evidence indicates claimant is sensitive to mold. Accordingly, I would grant claimant's request for workers compensation benefits for an occupational disease.

The occupational disease statute, K.S.A. 44-5a01, reads in part:

(b) "Occupational disease" shall mean only a disease arising out of and in the course of the employment resulting from the nature of the employment in which the employee was engaged under such employer, and which was actually contracted while so engaged. "Nature of the employment" shall mean, for purposes of this section, that to the occupation, trade or employment in which the employee was engaged, there is attached a particular and peculiar hazard of such disease which distinguishes the employment from other occupations and employments, and which creates a hazard of such disease which is in excess of the hazard of such disease in general. The disease must appear to have had its origin in a special risk of such disease connected with the particular type of employment and to have resulted from that source as a reasonable consequence of the risk. Ordinary diseases of life and conditions to which the general public is or may be exposed to outside of the particular employment, and hazards of diseases and conditions attending employment in general, shall not be compensable as occupational diseases. . . .

I believe claimant's employment as a teacher being assigned to classroom 3 exposed her to a peculiar hazard (mold exposure) that exceeded the risk of exposure in other employments and the possibility of such exposure in general. In short, claimant should receive benefits under the Workers Compensation Act.

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BOARD MEMBER

**DISSENT**

Claimant experienced illness due to exposure to mold at work. Her illness could be compensated as either an occupational disease or a personal injury by accident.<sup>14</sup> But exposure to mold is not a hazard peculiar to claimant's employment as an elementary school teacher. Rather, it is a condition to which the general public may be equally exposed. Therefore, under the facts of this case, her condition is not compensable as an occupational disease.<sup>15</sup> Her illness is compensable as a personal injury by a series of exposures/accidents. But because her symptoms resolved after she stopped working for respondent, her injury was temporary. Her benefits would be limited to medical treatment expenses and temporary total or temporary partial disability compensation.

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**BOARD MEMBER**

c: Kelly W. Johnston, Attorney for Claimant  
Anton C. Andersen, Attorney for Respondent and its Insurance Fund  
Pamela J. Fuller, Administrative Law Judge

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<sup>14</sup> See *Casey v. Dillon Companies, Inc.*, 34 Kan. App. 2d 66, 114 P.3d 182, *rev. denied* 280 Kan. \_\_\_\_ (2005); *Rains v. PMA (Preferred Medical Assoc.)*, No. 1,004,295, 2006 WL 2328062 (Kan. WCAB July 6, 2006) (appeal to Kansas Court of Appeals dismissed by voluntary dismissal).

<sup>15</sup> *Cf. Box v. Cessna Aircraft Co.*, 236 Kan. 237, 689 P.2d 871 (1984); *Armstrong v. City of Wichita*, 21 Kan. App. 2d 750, 907 P.2d 923 (1995), *rev. denied* 259 Kan. 927 (1996); *Walker v. Via Christi Health System*, No. 242,959, 2002 WL 31103958 (Kan. WCAB Aug. 30, 2002) (appeal to Kansas Court of Appeals dismissed by stipulation).